

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROSEMARY GONZALES,

Plaintiff,

v.

KILOLO KIJAKAZI, ACTING  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:21-cv-01353-AWI-HBK

ORDER GRANTING PARTIES'  
STIPULATED MOTION TO REMAND  
UNDER SENTENCE FOUR OF 42 U.S.C. §  
405(g), REVERSING FINAL DECISION AND  
REMANDING CASE

(Doc. No. 22)

ORDER MOOTING PLAINTIFF'S MOTION  
FOR SUMMARY JUDGMENT

(Doc. No. 16)

Pending before the Court is the parties' joint motion to remand filed January 4, 2023. (Doc. No. 22). Plaintiff Rosemary Gonzales and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under the Equal Access to Justice Act and calculating deadline using date of final judgment). The *Melkonyan* court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –

1 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a  
2 judgment affirming, modifying, or reversing the decision of the Secretary, with or without  
3 resetting the cause for a rehearing.” *Id.* (other citations omitted).

4 The Court grants the parties’ motion to remand under sentence four and reverses the  
5 Commissioner’s final decision. As agreed upon by the parties, upon remand, the Commissioner  
6 will further develop the record as necessary, and issue a new decision.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to  
9 remand (Doc. No. 22) and REVERSES the Commissioner’s decision. This case is  
10 REMANDED to the Commissioner of Social Security for further proceedings consistent  
11 with this Order.
- 12 2. An application for attorney fees may be filed by separate motion.
- 13 3. Plaintiff’s Motion for Summary Judgment (Doc. No. 16) is MOOT.
- 14 4. The Clerk shall enter judgment in favor of Plaintiff, terminate any deadlines, and close  
15 this case.

16 IT IS SO ORDERED.

17 Dated: January 13, 2023

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19 SENIOR DISTRICT JUDGE  
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